Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 11593 of 2023

Applicant :- Mayur Alias Sameer Sherwan
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Shyam Shanker Pandey
Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

1. Heard learned counsel for the applicant, learned AGA and perused the material available on record.

2. This application for anticipatory bail has been filed by applicant- **Mayur Alias Sameer Sherwan** in Sessions Trial No. 15 of 2023 in connection with Case Crime No. 40 of 2023, under sections 452, 323, 504, 506 IPC, P.S. Khatauli, District- Muzaffar Nagar.

3. The named accused persons three in number after entering into the house of the informant made an assault upon him and he sustained injuries. FIR was lodged on 24.01.2023 under Sections 452, 323, 324, 504, 506 I.P.C. and Sections 3(1)(da), 3 (1)(dha) and 3 (2)(va) of SC/ ST Act, however, the charge sheet was submitted against the present applicant under Sections 452, 323, 504, 506 I.P.C. as it was found that he himself belonged to the SC/ST community.

4. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. Charge sheet in the matter has been submitted. It is further submitted that the real uncle of the present applicant has been an accused in the murder case of the son of the informant and that case is still going on. It is further submitted that only simple injuries has been caused to the injured of this case. It is also submitted that no specific role has been assigned to the present applicant in the FIR and it has not been mentioned as to what weapon was used in the commission of the crime. It is also submitted that during course of investigation she has been cooperative. Criminal history of the applicant has been sufficiently

explained through supplementary affidavit. It is further submitted that the medical evidence does not corroborate the prosecution case and the applicant is entitled to anticipatory bail. In case applicant is granted anticipatory bail, he will not misuse the liberty of bail and would obey all conditions of bail.

5. Learned A.G.A. has opposed the prayer for anticipatory bail but however could not dispute this fact that only simple injuries have been found upon the body of the injured of this case and during course of investigation the applicant has been cooperative.

6. It reveals from perusal of the record that charge sheet in this matter has been submitted and there is no requirement for custodial interrogation.

7. Although the charge sheet has been submitted in this matter but in ***Sushila Aggarwal and others vs. State (NCT of Delhi) and another, (2020) 5 SCC 1***, the Hon'ble Apex Court has settled the law on the subject finally by holding that the anticipatory bail need not be of limited duration invariably. In appropriate case, it can continue upto conclusion of trial.

8. It has been further held therein that anticipatory bail granted can, depending on the conduct and behavior of the accused, continue after filing of the charge sheet till end of trial.

9. It has been further held by the Hon'ble Apex Court that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, llikelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

10. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant and all attending facts and circumstances of the case, without expressing any opinion of the merits of the case, in my view, it is a fit case for anticipatory bail to the applicant till conclusion of trial in the matter.

11. The anticipatory bail application is **allowed** accordingly.

12. In the event of arrest of the applicant in the aforesaid case crime, he shall be released on anticipatory bail on his furnishing a personal bond of Rs. 50,000/- with two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions :-

i. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

ii. The applicant shall not pressurize/ intimidate the prosecution witness.

iii. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

iv. The applicant shall not leave India without prior permission of the Court and if he has passport, the same shall be deposited by her before the S.S.P./S.P. concerned.

13. In case of breach of any of the above conditions, the Investigating Officer shall be at liberty to file appropriate application for cancellation of anticipatory bail of the applicant in accordance with law.

Order Date :- 31.10.2023
Fhd

Digitally signed by :-
FAHAD NIYAZ
High Court of Judicature at Allahabad